

CENTER FOR DISABILITY ACCESS  
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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

**Scott Johnson,**

Plaintiff,

v.

**Celia Bracamontes;**  
**Priscilla's Sala De Belleza Inc,** a  
California Corporation; and Does 1-  
10,

Defendants.

**Case No.**

**Complaint For Damages And  
Injunctive Relief For Violations  
Of: American's With Disabilities  
Act; Unruh Civil Rights Act**

Plaintiff Scott Johnson complains of Celia Bracamontes; Priscilla's Sala De Belleza Inc, a California Corporation; and Does 1-10 ("Defendants"), and alleges as follows:

**PARTIES:**

1. Plaintiff is a California resident with physical disabilities. Plaintiff is a level C-5 quadriplegic. He cannot walk and also has significant manual dexterity impairments. He uses a wheelchair for mobility and has a specially

1 equipped van.

2 2. Defendant Celia Bracamontes owned the real property located at or  
3 about 3140 Story Rd, San Jose, California, in January 2019.

4 3. Defendant Celia Bracamontes owned the real property located at or  
5 about 3140 Story Rd, San Jose, California, in February 2019.

6 4. Defendant Celia Bracamontes owned the real property located at or  
7 about 3140 Story Rd, San Jose, California, in March 2019.

8 5. Defendant Celia Bracamontes owns the real property located at or  
9 about 3140 Story Rd, San Jose, California, currently.

10 6. Defendant Priscilla's Sala De Belleza Inc owned Priscilla's Sala de  
11 Belleza located at or about 3140 Story Rd, San Jose, California, in January  
12 2019.

13 7. Defendant Priscilla's Sala De Belleza Inc owned Priscilla's Sala de  
14 Belleza located at or about 3140 Story Rd, San Jose, California, in February  
15 2019.

16 8. Defendant Priscilla's Sala De Belleza Inc owned Priscilla's Sala de  
17 Belleza located at or about 3140 Story Rd, San Jose, California, in March  
18 2019.

19 9. Defendant Priscilla's Sala De Belleza Inc owns Priscilla's Sala de Belleza  
20 ("Salon") located at or about 3140 Story Rd, San Jose, California, currently.

21 10. Plaintiff does not know the true names of Defendants, their business  
22 capacities, their ownership connection to the property and business, or their  
23 relative responsibilities in causing the access violations herein complained of,  
24 and alleges a joint venture and common enterprise by all such Defendants.  
25 Plaintiff is informed and believes that each of the Defendants herein,  
26 including Does 1 through 10, inclusive, is responsible in some capacity for the  
27 events herein alleged, or is a necessary party for obtaining appropriate relief.  
28 Plaintiff will seek leave to amend when the true names, capacities,

connections, and responsibilities of the Defendants and Does 1 through 10, inclusive, are ascertained.

#### **JURISDICTION & VENUE:**

11. The Court has subject matter jurisdiction over the action pursuant to 28 U.S.C. § 1331 and § 1343(a)(3) & (a)(4) for violations of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12101, et seq.

12. Pursuant to supplemental jurisdiction, an attendant and related cause of action, arising from the same nucleus of operative facts and arising out of the same transactions, is also brought under California's Unruh Civil Rights Act, which act expressly incorporates the Americans with Disabilities Act.

13. Venue is proper in this court pursuant to 28 U.S.C. § 1391(b) and is founded on the fact that the real property which is the subject of this action is located in this district and that Plaintiff's cause of action arose in this district.

#### **FACTUAL ALLEGATIONS:**

14. Plaintiff went to the Salon in January 2019 (three times), February 2019 and March 2019 with the intention to avail himself of its services, motivated in part to determine if the defendants comply with the disability access laws.

15. The Salon is a facility open to the public, a place of public accommodation, and a business establishment.

16. Parking spaces are one of the facilities, privileges, and advantages offered by Defendants to patrons of the Salon.

17. Unfortunately, on the dates of the plaintiff's visit, the defendants did not provide accessible parking in conformance with the ADA Standards.<sup>1</sup>

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<sup>1</sup> For example, there was no access aisle that accompanied the lone parking stall ostensibly reserved for persons with disabilities. On information and belief there are other issues with the parking that render it non-compliant. Those issues will be fleshed out in discovery and inspections. The plaintiff seeks to have accessible parking.

1 18. Currently, the defendants do not provide accessible parking in  
2 conformance with the ADA Standards.

3 19. Entrance into the Salon is another one of the facilities, privileges, and  
4 advantages offered by Defendants to patrons of the Salon.

5 20. Unfortunately, on the dates of the plaintiff's visits, the defendants did  
6 not provide accessible door hardware in conformance with the ADA  
7 Standards.

8 21. Currently, the defendants do not provide an accessible entrance in  
9 conformance with the ADA Standards.

10 22. Plaintiff personally encountered these barriers.

11 23. By failing to provide accessible facilities, the defendants denied the  
12 plaintiff full and equal access.

13 24. The lack of accessible facilities created difficulty and discomfort for the  
14 Plaintiff.

15 25. The defendants have failed to maintain in working and useable  
16 conditions those features required to provide ready access to persons with  
17 disabilities.

18 26. The barriers identified above are easily removed without much  
19 difficulty or expense. They are the types of barriers identified by the  
20 Department of Justice as presumably readily achievable to remove and, in fact,  
21 these barriers are readily achievable to remove. Moreover, there are numerous  
22 alternative accommodations that could be made to provide a greater level of  
23 access if complete removal were not achievable.

24 27. Plaintiff will return to the Salon to avail himself of its services and to  
25 determine compliance with the disability access laws once it is represented to  
26 him that the Salon and its facilities are accessible. Plaintiff is currently  
27 deterred from doing so because of his knowledge of the existing barriers and  
28 his uncertainty about the existence of yet other barriers on the site. If the

1 barriers are not removed, the plaintiff will face unlawful and discriminatory  
2 barriers again.

3 28. Given the obvious and blatant nature of the barriers and violations  
4 alleged herein, the plaintiff alleges, on information and belief, that there are  
5 other violations and barriers on the site that relate to his disability. Plaintiff will  
6 amend the complaint, to provide proper notice regarding the scope of this  
7 lawsuit, once he conducts a site inspection. However, please be on notice that  
8 the plaintiff seeks to have all barriers related to his disability remedied. See  
9 *Doran v. 7-11*, 524 F.3d 1034 (9th Cir. 2008) (holding that once a plaintiff  
10 encounters one barrier at a site, he can sue to have all barriers that relate to his  
11 disability removed regardless of whether he personally encountered them).

12  
13 **I. FIRST CAUSE OF ACTION: VIOLATION OF THE AMERICANS**  
14 **WITH DISABILITIES ACT OF 1990** (On behalf of Plaintiff and against all  
15 Defendants.) (42 U.S.C. section 12101, et seq.)

16 29. Plaintiff re-pleads and incorporates by reference, as if fully set forth  
17 again herein, the allegations contained in all prior paragraphs of this  
18 complaint.

19 30. Under the ADA, it is an act of discrimination to fail to ensure that the  
20 privileges, advantages, accommodations, facilities, goods and services of any  
21 place of public accommodation is offered on a full and equal basis by anyone  
22 who owns, leases, or operates a place of public accommodation. See 42 U.S.C.  
23 § 12182(a). Discrimination is defined, inter alia, as follows:

- 24 a. A failure to make reasonable modifications in policies, practices,  
25 or procedures, when such modifications are necessary to afford  
26 goods, services, facilities, privileges, advantages, or  
27 accommodations to individuals with disabilities, unless the  
28 accommodation would work a fundamental alteration of those

1 services and facilities. 42 U.S.C. § 12182(b)(2)(A)(ii).

2 b. A failure to remove architectural barriers where such removal is  
3 readily achievable. 42 U.S.C. § 12182(b)(2)(A)(iv). Barriers are  
4 defined by reference to the ADA Standards.

5 c. A failure to make alterations in such a manner that, to the  
6 maximum extent feasible, the altered portions of the facility are  
7 readily accessible to and usable by individuals with disabilities,  
8 including individuals who use wheelchairs or to ensure that, to the  
9 maximum extent feasible, the path of travel to the altered area and  
10 the bathrooms, telephones, and drinking fountains serving the  
11 altered area, are readily accessible to and usable by individuals  
12 with disabilities. 42 U.S.C. § 12183(a)(2).

13 31. When a business provides parking for its customers, it must provide  
14 accessible parking in compliance with the ADA Standards.

15 32. Here, the lack of accessible parking is a violation of the law.

16 33. When a business provides an entrance, it must provide an accessible  
17 entrance in compliance with the ADA Standards.

18 34. Here, no such accessible entrance has been provided in compliance with  
19 the ADA Standards.

20 35. The Safe Harbor provisions of the 2010 Standards are not applicable  
21 here because the conditions challenged in this lawsuit do not comply with the  
22 1991 Standards.

23 36. A public accommodation must maintain in operable working condition  
24 those features of its facilities and equipment that are required to be readily  
25 accessible to and usable by persons with disabilities. 28 C.F.R. § 36.211(a).

26 37. Here, the failure to ensure that the accessible facilities were available  
27 and ready to be used by the plaintiff is a violation of the law.  
28

1 **II. SECOND CAUSE OF ACTION: VIOLATION OF THE UNRUH CIVIL**  
2 **RIGHTS ACT** (On behalf of Plaintiff and against all Defendants.) (Cal. Civ.  
3 Code § 51-53.)

4 38. Plaintiff repleads and incorporates by reference, as if fully set forth  
5 again herein, the allegations contained in all prior paragraphs of this  
6 complaint. The Unruh Civil Rights Act (“Unruh Act”) guarantees, inter alia,  
7 that persons with disabilities are entitled to full and equal accommodations,  
8 advantages, facilities, privileges, or services in all business establishment of  
9 every kind whatsoever within the jurisdiction of the State of California. Cal.  
10 Civ. Code § 51(b).

11 39. The Unruh Act provides that a violation of the ADA is a violation of the  
12 Unruh Act. Cal. Civ. Code, § 51(f).

13 40. Defendants’ acts and omissions, as herein alleged, have violated the  
14 Unruh Act by, inter alia, denying, or aiding, or inciting the denial of, Plaintiff’s  
15 rights to full and equal use of the accommodations, advantages, facilities,  
16 privileges, or services offered.

17 41. Because the violation of the Unruh Civil Rights Act resulted in difficulty,  
18 discomfort or embarrassment for the plaintiff, the defendants are also each  
19 responsible for statutory damages, i.e., a civil penalty. (Civ. Code § 55.56(a)-  
20 (c).)

21 42. Although the plaintiff was markedly frustrated by facing discriminatory  
22 barriers, even manifesting itself with minor and fleeting physical symptoms,  
23 the plaintiff does not value this very modest physical personal injury greater  
24 than the amount of the statutory damages.

**PRAYER:**

Wherefore, Plaintiff prays that this Court award damages and provide relief as follows:

1. For injunctive relief, compelling Defendants to comply with the Americans with Disabilities Act and the Unruh Civil Rights Act. Note: the plaintiff is not invoking section 55 of the California Civil Code and is not seeking injunctive relief under the Disabled Persons Act at all.

2. Damages under the Unruh Civil Rights Act, which provides for actual damages and a statutory minimum of \$4,000 for each offense.

3. Reasonable attorney fees, litigation expenses and costs of suit, pursuant to 42 U.S.C. § 12205; and Cal. Civ. Code §§ 52.

Dated: May 15, 2019

CENTER FOR DISABILITY ACCESS

By:



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Amanda Seabock, Esq.  
Attorney for plaintiff